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ATTORNEY FOR DEFENDANT MICHAEL FREEMAN

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,)	
)	No. 3:12-cr-00512 KI
Plaintiff,)	
)	SENTENCING MEMORANDUM
vs.)	
)	
MICHAEL FREEMAN,)	
)	
Defendant.)	
_____)	

INTRODUCTION

Michael Freeman plead guilty to two counts of Production of Pornography involving his minor daughters. A presentence report has been reviewed and objections to that report submitted to the court. A comprehensive psychosexual evaluation of Mr. Freeman prepared by Dr. Keith Linn is being submitted under seal for the court's consideration. In addition, a personal letter written to the court by Mr. Freeman is attached to this memorandum (*Exhibit 1*).

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There is no real dispute regarding the conduct of Mr. Freeman and his wife regarding their sexual exploitation of their daughters. Mr. Freeman, upon learning about the federal investigation, notified the police, preserved the evidence against him for the police, and waited at his home to be arrested. Upon his arrest Mr. Freeman gave a complete and candid statement to the police acknowledging his conduct and taking responsibility for the same. His remorse is deeply felt and genuine as his letter to the court attest. He well knows the significant damage that his conduct has brought to these innocent children. Mr. Freeman knows that he needs not only to be severely punished, but also ongoing mental health assistance in order to fully understand his own behavior and to break the pattern that led to these tragic events.

BACKGROUND

There is nothing in an individual's background or life that can ever excuse or justify the sexual exploitation of children. However, it is important for the court to fully understand the background and circumstances of Mr. Freeman's life as well as prognosis for the future in order to fairly consider whether or not he should someday have the chance to be free.

Dr. Linn's report documents a history of Mr. Freeman's own sexual victimization at the hands of his mother, her boyfriends and others in his life. Aside from extreme neglect and emotional abuse by a mother who tried to raise him as a girl and had him sleep in her bed until he was twelve years old, Mr. Freeman was forcefully and repeatedly sodomized by an older boy around the same period of time. He also witnessed his mother being raped. Sexual fantasies and the use of pornography became "his fix and escape."

Mr. Freeman turned to religion in hopes of finding some hope and salvation. He describes having a vision of an angel at the age of 15 and gave over his life to Jesus in order to try and stop his feelings of shame and turn away from the sexual fantasies and pornography. He felt that if he just prayed enough, God would help heal him. For several years it seemed to work.

Around the age of 19, Mr. Freeman began to attend Oklahoma Wesleyan University, a bible college. It was here that he met his wife Michelle. Unfortunately his union with Michelle, who suffered from her own background of extreme sexual and psychological abuse, led to the creation of an extremely dysfunctional family in which the normal boundaries between parent and child were not respected.

The Freeman's struggled in their marriage. As children came into their lives and financial pressures mounted, Mr. Freeman increasingly turned to pornography as an escape. Initially he kept his pornography habit hidden. Even though he felt shame over his compulsion, he still viewed himself as a good husband who never cheated on his wife and as a good father who always provided for his family.

Several years ago, a breaking point in Mr. Freeman's life occurred due to a confluence of difficult and tragic events: his church had split up due to internal conflicts, he lost his job, his best friend died and another friend committed suicide, his mother died, and his grandmother died. He began to question his faith in God. It was during this period of time that Mr. Freeman plunged deeply into pornography, including for the first time the viewing of child pornography. Soon thereafter he first invited his oldest daughter into his dark world taking pictures of her and posting

them on the internet. This soon progressed to oral sexual contact.¹

Mr. Freeman confessed to the spiritual leader of his church, Dr. Brian Ray, what he had done. Dr. Ray counseled him to “pray more” and to confess his sins to his wife Michelle. Mr. Freeman did in fact both those things. Initially, his wife kicked him out of their home. She was counseled by Dr. Ray to stay married and take back her husband.

For period of time Mr. Freeman tried to stop his own compulsions and even had a member of his church move in to help monitor the situation. Eventually, however, the compulsions proved to be too strong and Mr. Freeman once again began to view the pornography and act out with his older daughter. His wife then joined in and participated in the deviant sexual behavior with his daughter. As Mr. Freeman explains it, “I convinced Michelle that there were no morals.” On a very fundamental level, they both knew how wrong everything was. The guilt both of them experienced led to suicide attempts where Michelle tried to overdose on prescription pills and Mr. Freeman put a gun in his mouth.

SENTENCING OPTIONS

Perhaps no other crimes evoke such an emotional response that those perpetrated against children. When the children involved are victims at the hands of their own mother and father, the people whom they rely upon and trust most in the world, passions run even higher. It is anticipated that the government will bring these passions to the courtroom at the time of

1 Although Mr. Freeman has plead guilty to the same charge involving his youngest daughter because of photographic images depicting both of them naked, there is no

sentencing in an effort to persuade the court to impose the maximum sentence possible in this case. There is nothing the government can present, however, that will not have already been spoken about in volumes by Mr. Freeman himself. No one can condemn him more than he does himself. No matter how many years he serves, the real prison he lives in every day of his life is the one that his mind and spirit occupy.

The court has a wide latitude in this case as to how much incarceration is sufficient, but not greater than necessary, to comply with the purposes of both adequate punishment and rehabilitation. If the government's recommendation of 60 years is followed, then there is no chance that Mr. Freeman will ever live out his prison sentence, and therefore, no consideration given to his rehabilitation. Even probations recommendation of 40 years given Mr. Freeman's age and the difficulty of maintaining a healthy life style while incarcerated would likely result in a life sentence.

Perhaps a sentence equivalent to life imprisonment may be justified in cases involving brutal homicides or terrorism where society needs to be protected from dangerous persons who are beyond rehabilitation or reform. In Mr. Freeman's case, however, the court is presented with an individual whose mental health issues and untreated sexual addictions have never been addressed. His behavior towards his daughters, while terribly harmful and damaging, remained limited to the dysfunctional family unit and not society at large where other children could have been endangered. Dr. Linn's evaluation concludes that Mr. Freeman does not exhibit the attitudes or traits of a sex offender with a high risk of sexual recidivism. The fact that he has spoken

evidence of any oral or other type of sexual contact between them..
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candidly and accepts full responsibility for his crimes, offers no excuses for his behavior, constantly seeks to understand why he committed the offenses, and continues to seek out treatment gives one hope that someday he could reenter society at an age when his children are well grown.

The question of how much time is enough is always a difficult one to determine. At some point such numbers as 40 or 60 years imprisonment become meaningless. Regardless of what sentence this court imposes, Mr. Freeman still faces related charges with the State of Oregon in which there is a mandatory minimum sentence of 25 years. It is very likely that he will receive more that the mandatory minimum sentence by the State.

For all of the foregoing reasons, it is respectfully requested that the court impose a sentence of 25 years. Such a sentence is sufficient, but not greater than necessary. It reflects the seriousness of this offense but also recognizes that Mr. Freeman should be given the opportunity for rehabilitation and hope someday to see the light of day. It is further requested that the court recommend to the Bureau of Prisons designation to the Federal Medical Center located in Rochester, Minnesota. The Rochester facility is specifically designed to provide medical and mental health services to male offenders such as Mr. Freeman.

DATED this 26th day of November, 2013

Respectfully Submitted,

/s/ Andrew Bates

Andrew Bates

Attorney for Defendant Michael Freeman

Sentencing Memorandum

Exhibit 1

Mr. Freeman's letter to the Court

Sentencing Memorandum

Honorable Judge King;

I cannot imagine a reason why you would want to show mercy to me but I will tell you exactly what I was thinking so you can judge.

I honestly never meant to hurt anyone, but I certainly did! I would gladly trade my life to undo the pain that I've caused. But I know that is not possible. Many times I've contemplated suicide but now I feel like that would only hurt more people and would do nothing to help my family. I wish I had done it before all of this and spared everyone all this pain.

It seems that there is nothing I can do. I cannot undo what I did, yet I must live on, seeing my family destroyed because of me. God gave me the greatest gift of all and the greatest responsibility a man can ever have; the opportunity to be a husband and a father. I took that gift for granted and rebelled against the responsibility. I pray every day that

God will heal my children and my wife. I plead with Him to turn back the clock to a time before I ever did those terrible things, but I know He won't. I pray that my daughters will be able to stop the cycle of abuse and self hate that I have initiated them into. I beg God, daily, I tell Him I will do anything but it seems there is nothing I can do.

I would like to answer the question that you must be wondering about; why I did it. I was shocked myself when I looked at my own crime wondering "how could I have done such a thing?"

I have struggled with pornography for many years. When I was fifteen years old an Angel appeared to me and I had a vision of being cast into a pit. I gave my life to Jesus. I thought after that, that I would be able to stop. I was in a homosexual relationship that I didn't want to be in and I was able to stop that with the Lord's help. But I couldn't stop

the pornography. When I talked to the Pastor about my problem, he told me "just read your Bible and pray more". Everyone told me that and I did it, yet I was still caught in a cycle of guilt, shame, defeat, and sin.

Many times I was referred to a psychiatrist from grade school through my time in the Army. I spent alot of time with the school councillor but I always thought that they were useless and that I didn't have "real" problems. I can now see that I did and do. When tough times have come in my life I have turned to pornography, even as a child.

I've spent alot of time thinking about why I did what I did. When I got to jail they made me talk to a mental health professional. To my surprise, they made sense! I was ready to listen because it was now abundantly clear that every thing I had thought before was wrong! I began to root-out the

courses of my crime. I began to understand (with the help of "Steve" the mental health worker) that things in one's past and poor choices can lead to terrible mistakes, though in the end of it all, I still believe that each man is still ultimately responsible for what he does.

As I looked back on my life I could see how the worse things got, the more I would turn to pornography and fantasy thinking. I could see that I was not at all the person I thought that I was. I believed that I was a loving (if not belabored) husband and a very sane man. I thought that "the world" was insane and I was the one with "the truth".

I always kept my pornography habit hidden, I would destroy what I had only to get more later. I thought it was only my problem and that it didn't affect anyone else. I thought because I never physically cheated on my wife, that it was all contained.

After we lost our church home due to a political split, I lost my job. Within a few years my oldest son nearly died, was nearly crippled for life, my best friend died, my mother died, my grandmother died, my good friend committed suicide. We began to go to a new church-plant led by former church leaders, the "Rays". Our new church organization's leader and founder was caught in a sex scandal, another home-schooling dad and christian fellow in our community committed suicide. During this period I got deeper and deeper into pornography, into the cycle of guilt, shame, defeat, and sin. I eventually lost all faith in God or religion.

One night I was tickling-in my daughter Merriam. She wanted her belly rubbed. While rubbing her belly I began to touch her lower down. Later on I was shocked at my own behavior. I went to Mr. Ray and I confessed what I had done to him. I was

prepared to go to jail or to end my own life. But I was the sole "bread winner" and I didn't want to leave my struggling family in a much worse condition. Non-the-less, I was prepared to do whatever needed to be done to stop. Mr. Ray advised me to confess to my wife, Michelle, and not to turn myself in. He felt it was better to have a "not-so-good" father than none at all. Since I had grown up fatherless this sounded right to me.

I told Michelle what I had done. She was hurt and angry and she asked me to leave our home.

A few days later the Ray family counsiled us to be together, our community was strongly against divorce. Michelle reluctantly took me back.

I kept thinking about what I had done. Mr. Ray said he cared and wanted to keep me accountable but he didn't seem to really care. I felt like Michelle didn't love me. I can now see that what I did seriously exacerbated the

depression she was feeling from my mother's death (her best friend). I was so self centered; she needed me to love her and all I did was think about how much I needed someone to love me.

My daughter, Mervi was so loving and giving that she began to take the place of my wife. Soon I found that she loved to have her picture taken and she would pose any way I asked her to. Our picture sessions got more and more risqué. I began to have her pose in the way the girls in the pornography I was looking at posed. I can now see that she did all this because she trusted that I would not do anything that was bad for her and she thought all the special attention she was getting was because I loved her. Soon it progressed to doing some of the things that they were doing in the pornography. I performed oral sex on her and

eventually she on me.

At this time I had given up on religion. I believed that there were no morals, only what felt good to people as long as no one got hurt or was forced to do anything they didn't want to do. I thought that because I could convince her it was "fun" and because I didn't physically hurt her, that it was all acceptable behavior.

I grew up in a very unconventional environment. When I was a child, my mother didn't want me to be like a boy. So in my younger years I was dressed and treated as a girl. After I found that other boys made fun of me, I decided to live as a boy. But I was sad because I was not beautiful and people didn't pay attention to me anymore.

I think now that I was essentially living out my childhood desires through Merriam. I wanted people to see how

beautiful she was. I saw some non-nude pictures of her on a non-nude website. A guy contacted me who wanted "more". He thought she was "sexy" and beautiful. I felt that I would have loved it if someone felt that way about me.

Mervian's sister, Madelyn felt like Mervie was getting special attention when we were alone together, so eventually I let her come in and pose with her. I didn't feel the same way about her though, so I never touched her. I believe that was because she was not the way I wanted to be as a child.

I can now see how seeing my mother being raped and having myself been raped caused me to have such faulty thinking. That's no excuse for what I did, I should have accepted help long ago. I should have turned myself in right away. I thought if I just believed enough in

Jesus that He would heal me. But I now see that God made doctors for the physically sick so of course doctors for the mentally sick are just as necessary.

Over a period of time I convinced Michelle that there was no morals or gods. Eventually I got her to pose with Merri a few times. We became more and more physical in Merri's presence until we included her in our "love making" (oral sex and/or masturbation). We made a video. I thought everybody was having "fun". The man on the internet who called himself "Jimmy" liked it. He told me that I should keep making them and sending pictures or he would put them out online for everyone to see. He wanted more and more.

One day Michelle told me I was wrong. She said she was hurt by my relationship with Merri and that she didn't

believe I was right about there being no god or morals anymore. I never wanted to hurt anyone. I told "Tim" that I was done making videos and taking pictures. I told him it was bad for Merri and all of us, I erased everything on my computer and data cards.

After all of that I still struggled with being too intimate with Merriam so I invited our friend, Steve Esses to come and live with us. He was out of work and I knew he would not allow such behavior. He never knew what had gone on but his presence in the house helped. One day Mr. Esses told me about his experience with Jesus when he got "saved". I was amazed at how much his experience was like mine. I came to see that I was wrong. As I re-established my belief in Christ I was able to stop viewing pornography and to establish more appropriate physical

boundaries with Merriam.

In retrospect, I can also see how my life circumstances affected my addictive behavior. I had a new job, no more personal tragedies, etc. I didn't need my old crutch of sexual deviance.

At this point, I didn't want to tell anyone what I had done. I was the only one with a job and my family needed me. But guilt ate at both of us; Michelle tried to commit suicide with pills, I put a gun in my mouth but I couldn't pull the trigger. I didn't want to leave them all alone.

When I learned that Michelle was wanted for child pornography production we called the police and turned ourselves in. I put my camera, computer, and hard drives in the gun safe and put a note on it that said "evidence". When the police finally arrived, I gave an officer the key

and told him what was in the safe. There was no one to take care of the children so the state took them into custody. When the investigators questioned me I told them I was the man in the video. I told them every thing I had done.

I am so very, very sorry for what I did but I know that no matter how sorry I am, it won't help my family. I've done alot of research and gotten as much council as possible since going to jail.

My oldest two sons say that they forgive me. At this point I don't think it would be good for my younger children to talk about this with me. I can't communicate with Michelle right now. There is nothing I can do to "fix" this. But my research into sexual addiction has shown me that an important step in recovery is trying to make amends.

I know I will never be able to fully make amends for this awful thing, but I do believe there is great benefit in trying.

Frankly, your Honor, if I thought that I would be the man I was before, I would not want to ever be free. I don't want to ever hurt anyone again like I hurt my family. But my psychiatric review, mental health professionals, my studies, and my prayers lead me to believe that someday, with help, I may be able to love people rightly.

I would like the chance to try and make amends by improving myself and my mental health and by loving my family rightly someday. I will do anything to someday fulfill my commitment to be a loving husband and father.

I want to tell my wife, face to face, that I'm sorry. I want to tell her she is the most beautiful woman in the

world and the only one for me. I want to love her unconditionally. I want to tell my daughters (when they are ready to hear it) that I am sorry. I want to love them for the wonderful people God made them as, not as a set symbol tied to my disfunctions.

As I sat in jail on suicide watch, one day I suddenly felt God tell me that I was forgiven! I could not accept it! How was it just or fair? I didn't feel that I should be forgiven, but God did. Eventually I realised that this is love, unconditional love. I realised that if God can love even someone like me, then I can love others unconditionally too, even myself. All these years I never understood what real love was, now I do and I'm so sorry I didn't before when I had the chance to share that love with my family. I failed them all.

I didn't understand or believe that I was the one who was not well. I can now see that I am the one who is deeply flawed and have lived my life in vain error. I understand that I must go to prison for a long time and that is what is just and right. What I am asking for ~~is~~ for an opportunity to be a contributing member of society and my family before I am too old to do it. I am asking for the chance to make amends, as much as humanly possible, to those I hurt.

Thank you.

Michael D. Furman